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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,520	07/01/2003	David Mark Frantz	DN2003110	4447

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THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
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AKRON, OH 44316-0001

EXAMINER

KNABLE, GEOFFREY L

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/611,520	Applicant(s) FRANTZ ET AL.	
	Examiner Geoffrey L. Knable	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/03;9/04;12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election of group I, species C in the reply filed on February 23, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, line 3, the reference to "a thin at least one colored layer" is indefinite and confusing as it is not entirely clear whether the "at least one" in this context is in reference to the number of layers or the number of colors. This same ambiguity is present for the same language used at lines 3 and 4 of claim 4.

In claim 3, line 5, no antecedent has been established for "the first layer".

In claim 3, line 6, reference is made to a "multicolored pattern" as opposed to the description in the preamble of a "camouflaged tire" - given that it is assumed that this pattern is what provides the camouflage, it would be clearer if this were also explicitly defined in the body of claim 3 for example at line 6 (e.g. "multicolored camouflage pattern").

In claim 4, line 3 is awkward and confusing - it seems that "an" should be "and".

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US 2003/0140999) or DE 19630586 to Merten taken in view of Conway et al. (US 5,077,101).

Smith et al. discloses forming camouflaged tires having a multicolored pattern (esp. paragraphs [0028], [0065] and [0066]), it being indicated that "the outer surface of the tire can be provided with one or more layers of colored material" and that this coloring can be effected before/during formation of the tire (note esp. paragraph [0051]). DE '586 similarly suggests providing a layer on a tire surface that can display different colors including camouflage colors (note esp. the last paragraph on page 2 of the supplied translation). These references thus would suggest applying a layer or layers to a tire surface to provide desired coloring/patterning including camouflage patterning but do not suggest applying a thin perforated colored elastomer layer as claimed.

Conway et al. is directed to a manner of forming particularly desirable camouflaging of surfaces in both visible and infrared spectral ranges, the method

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including superimposing perforated layers of different colors and emissivities on a dark base material so that portions of the dark underlying surface can be seen through the perforations (e.g. note perforations "6" in fig. 1 as well as col. 2, lines 45-46 and col. 3, lines 44+). In light of this teaching, it is considered to have been prima facie obvious to form the camouflage patterning desired by the primary references using perforated colored layers with an expectation of yielding a desirable camouflaging effect. A process as required by claim 3 is therefore considered to have been obvious. As to claim 5, randomizing or varying the perforations would have been obvious in view of the teachings of Conway et al. (esp. col. 3, lines 44-55, col. 4, lines 20-25 and col. 5, lines 37-41) as well as what is considered to be generally understood as desirable features of a camouflage pattern. As to claim 6, curing the tire is a necessary and obvious part of any tire building process.

6. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Although it is known in general in forming camouflage sheet materials to stretch a perforated layer to provide openings - e.g. Mitchell (US 2,351,142) and Rush (US 4,323,605) - there is no reasonable teaching or suggestion, in the context of applying perforated colored elastomeric layers to an uncured tire, to stretch the colored perforated layers to increase the perforations into enlarged openings.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

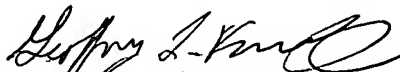
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Newell (US 3,233,647) discloses applying perforated elastomeric layers to an uncured tire but this is for coding the tire and not for manufacturing a camouflaged tire and further this reference does not suggest different colors for the layers. Williams et al. (US 2,985,216) disclose applying markings to a tire where apertures are provided in an appliqué so that the tire wall can be visible there through (e.g. col. 3, lines 10-15). This process is however not for manufacturing a camouflaged tire and further the appliqué is applied to a cured rather than uncured tire.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Geoffrey L. Knable
Primary Examiner
Art Unit 1733

G. Knable
May 9, 2006